Before the
Federal Communications Commission
Washington D.C. 20554

In the Matter of	)	
	)	
Telecommunications Relay Services	)	
And Speech-to-Speech Services for	)	CC Docket No. 98-67
Individuals with Hearing and Speech	)	
Disabilities	)	

COMMUNICATION SERVICE FOR THE DEAF
REPLY COMMENTS ON "SPEED OF ANSWER"

Communication Service for the Deaf (CSD) submits these reply comments in response to initial comments provided to the FCC on a proposed average speed of answer (ASA) requirement for video relay services (VRS).

I. A Stringent ASA is Required to Provide Functional Equivalent Service

On numerous prior occasions, CSD has pointed out the need for a VRS average speed of answer that is short enough to approximate functional equivalency.[1] CSD continues to maintain that Section 225 of the Communications Act mandates a short average speed of answer for VRS users.

[1] Sorenson's suggestion that the popularity of its service reflects an informed choice by consumers to go with the provider with the longest answer times could not be further from the truth. As both HOVRS and the California Coalition of Agencies Serving The Deaf and Hard of Hearing point out, the only reason that Sorenson currently provides more than half of all VRS calls is because it distributes free equipment that attracts consumers to its point-to-point video services. Once acquiring these customers, Sorenson blocks them – technically, contractually, and through its Names and Location Database – from using any other provider's video relay services. See Comments of HOVRS at 2.n.1; Petition for a Declaratory Ruling on Interoperability. Deaf consumers most certainly have not made a choice, informed or otherwise, to accept long waiting periods, as is reflected by their repeated and consistent submissions to the Commission urging an answer speed that mirrors the ASA for traditional relay.

While CSD believes that the ASA should be based on principles of functional equivalency rather than only on the number of interpreters presently available in the United States (the latter being a matter that is separate and apart from what is required to achieve functional equivalency), CSD does believe that a sufficient number of interpreters exists to meet a stringent ASA at this time; indeed, this number will steadily increase once the new ASA is put into place. CSD therefore addresses the interpreter issue below, not because we believe that the ASA should strictly turn on the availability of interpreters, but because we believe that assertions that there is an interpreter shortage are incorrect and are detracting from the FCC's obligation under the Communications Act to require functionally equivalent telecommunications access.

Having first started providing interpreting services 29 years ago, CSD now provides more than 470,000 hours of interpreting services nationwide on an annual basis. Combined, CSD employs more than 500 full and part time interpreters for its community based operations, video relay services, and on-line interpreting services in all fifty states. Based on this extensive experience, CSD maintains that sufficient interpreting personnel are available throughout the United States to fulfill the ASA proposed in our initial comments: response times of 85% of all calls within 30 seconds.[2]

[2] Though Sorenson suggests that the requests of some providers, including CSD, not to open up multiple VRS centers in the same location indicates the depth of the interpreter shortage (Sorenson at 3), actually, this practice is a matter of plain common sense. With interpreters spread all over the United States, it makes little sense to pull an excessive number of

Some commenters to this proceeding have implied that in order for an interpreter to provide VRS, the interpreter must have national interpreting certification.[3] While it is true that the Registry of Interpreters for the Deaf (RID) provides the most nationally recognized testing system for interpreters in the United States, as CSD has previously pointed out to the Commission, several states, including but not limited to, Texas, North Carolina, California, South Dakota, Missouri, and Nebraska, have also developed their own systems or hybrid testing systems to certify interpreters.[4] Interpreters who receive certification from these and other states are often just as qualified and competent to provide VRS as are RID-certified interpreters, and in fact, several VRS providers, including CSD, routinely hire state-certified interpreters to handle VRS calls. Strong certification in some states, such as Texas, have even resulted in the employment of state-certified interpreters to fill as many as half of its VRS interpreting positions. Although some commenters have placed the number of national certified interpreters somewhere between 5,000 and 6,000,[5] when the number of state certified interpreters is added to this figure, the actual estimate is likely to be closer to 9,000 individuals who may be capable of interpreting VRS calls.[6]

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interpreters from one community. A more even distribution of interpreting resources can be attained by opening multiple centers in multiple cities.

[3] Comments of MCI at 2; Sorenson at 2.

[4] See CSD Comments in Response to Sorenson Opposition (November 30, 2004).

[5] Comments of Sorenson at 2; MCI at 2.

[6] See CSD Comments in Response to Sorenson Opposition at 2-3.

Moreover, VRS is a burgeoning field for interpreters, one that provides stability and benefits that are new to interpreters – many of whom had to rely on freelance opportunities in the past. Although RID's website already reports over a thousand student members who are enrolled in interpreter training programs, even this figure is likely to grow as the demand for VRS interpreting services increases.[7] As CSD has previously noted, the same phenomenon occurred in response to similar demands for accessible services in the past. For example, although MCI now points out how easy it is to obtain communications assistants who type 60 words per minute, this was not always the case.[8] In fact, when the FCC was first contemplating the rules for its very first TRS Report and Order in 1990, the telephone industry fought vigorously against setting a typing speed of either 60 – or even 45 words per minute – insisting that it would be impossible to find enough employees to meet this standard. Bowing to these concerns, in 1991, the FCC decided not to require *any* specified typing speed, and waited another decade, until March of 2000, to adopt its current standard of 60 words per minute.[9] Of course, as MCI has noted, since this standard has been in place, finding qualified CAs has not been an issue.

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[7] www.rid.org (retrieved March 4, 2005).
[8] MCI at 2 ("A new entrant is able to provide relay operator training within 3 weeks because a large pool of persons who already type 60 words per minute is readily available in all states.")
[9] Even then, several telecommunications providers tried to protest the typing standard, predicting that they would encounter difficulties finding enough high speed typists.

The surge in sign language interpreters that we are predicting will similarly occur once an ASA is in place, would not be unprecedented in the interpreting field as well. When passage of the Americans with Disabilities Act (ADA) began to place steep demands for sign language interpreting services on employers, local governments and places of accommodation in the early 1990s, a literal boom in the sign language interpreter industry took place. Membership roles in both state and national certification programs swelled to meet the need for interpreting services in public and private schools, courts, hospitals, and other entities covered by the ADA's new provisions.[10] Instituting a functionally equivalent answer speed will similarly increase the ranks of interpreters to meet the needs of VRS users.[11]

II. Efforts to Provide Specialized Interpreters Cannot Excuse High Answer Speeds

Sorenson notes that its users frequently request a certain type of interpreter that may have skills in medical, legal or other specialized fields. While CSD agrees that it is critical to provide highly qualified interpreters for all VRS calls – and similarly makes every attempt to meet a caller's specific needs when an interpreter is available and time permits – the FCC will surely agree that VRS is very different from VRI or other interpreting

[10] See CSD Comments in Response to Sorenson Opposition at 4-5 for statistics pertaining to the increase in interpreters as a result of new demands created by the ADA.
[11] As CSD noted in prior comments, concerns about a shortage of sign language interpreters also are reminiscent of personnel concerns that came up when the FCC was drafting its mandates for closed captioning in the late 1990s. Since mandates for nearly 100% television captioning were implemented in 1998, the number of skilled captioners has soared to respond to that demand.

services where advance notice can better fulfill specialized requests. The FCC has already outlawed a number of marketing practices that would make VRS a service that is closer to VRI than to a telephone service (selectively answering calls from preferred customers, allowing advance reservation for calls, certain call backs). Moreover, the FCC has made clear that VRS interpreters are simply there to facilitate telephone calls, not to accept or reject specific interpreting requests. In rejecting a petition that had requested the exclusion of VRS calls involving legal interpreting, the Commission explained that callers "should not expect to receive 'interpreting services' typical of interpreters providing services in legal settings. Rather, if a party wants or needs an interpreter for a legal proceeding, it is more appropriately the responsibility of the parties to the legal proceeding to secure the services of such a legally qualified interpreter if they believe such an interpreter is necessary under applicable state law."[12] Imposing a long answer speed *for all users* under the guise of trying to fulfill specific user needs is a practice that is far more characteristic of VRI than it is of VRS, is inappropriate under principles of functional equivalency, and should not be tolerated.

III. A Phase-in is Necessary

[12] *In the Matter of Telecommunications Relay Services and Speech to Speech Services for Individuals with Hearing and Speech Disabilities,* Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, CC Dockets No. 90-571, 98-67, 03-123, FCC 04-137 (June 30, 2004) at ¶159.

CSD would like to re-emphasize the need for a phase-in of an ASA that begins at 75% of all calls answered within 60 seconds for a period of three months, swiftly moves to 85% of all calls answered within 30 seconds at six months, and strives to reach the 85/10 standard applicable to traditional TRS within two years.[13] Much as CSD would like to do so, too many variables remain unknown at this time in the VRS industry to achieve an 85/10 standard overnight. Although VRS has matured significantly since its inception, the lack of interoperability across VRS providers prevents an accurate assessment of how calls will be distributed in a truly functionally equivalent VRS environment.

IV. A Monthly Assessment will Sufficiently Address Fluctuations in VRS Use

MCI recommends that one way of mitigating the adverse impact that an ASA standard would have on VRS providers would be to establish longer ASAs for certain periods of the day where demand is likely to be lower. CSD believes that this would not be fair to consumers, who are just as interested in having their calls answered quickly late into the evening as they are in having those calls answered in the middle of the day. Additionally, as consumers come to increasingly rely on VRS as their sole method of communication, having exceedingly long answering times at any time of the day could be hazardous in the event of an emergency. Rather than create

[13] Again, CSD recommends that the FCC re-evaluate the practicality of meeting the 85/10 at this two year benchmark.

varying answering times, allowing VRS providers to calculate their ASA on a monthly basis – at least for the first year – should be sufficient to take into account the ebbs and flows that naturally occur at different times of the day, as well as occasional and unexpected peaks in usage. If the ASA is set at 85/30 throughout the day and night, but compliance is assessed on a monthly basis, VRS providers will have the incentive to provide fast service at all times, while at the same time having the flexibility to achieve compliance with the FCC's standard, even if there are aberrant spikes in the use of VRS during periods of normally low demand. The FCC may want to re-evaluate whether moving to a daily assessment is manageable after this initial year is complete.

V. VRS Providers Are Already Required to Have a Functionally Equivalent Blockage Rate

Sorenson suggests that one way for a provider to maintain low hold times is to simply block calls from reaching their services. It asks the Commission not to allow providers to "peak at over 60% capacity to ensure that calls are not blocked before they even arrive at the providers' services." This, Sorenson says is equivalent to providing the appropriate number of trunks for PSTN lines.[14]

The idea of a provider somehow blocking access to its network is in conflict with every principle of TRS and telecommunications access. The only way that this could be achieved would be to either provide instruction to individual VRS units or by directing a server's gateway not to accept calls from a range of users. Deliberately taking an action that would limit a user's ability to access VRS would be in clear violation of all principles of TRS as a functionally equivalent telephone service, and certainly would not be permitted under the FCC's existing rules.

In fact, FCC rules already prohibit TRS providers from blocking calls to a greater extent than voice calls would be blocked by the PSTN. Specifically, the "blockage" standard for TRS calls is P.01, or one in one hundred calls. Part 64 of the FCC's rules further specify:

> Adequate network facilities shall be used in conjunction with TRS so that under projected calling volume the probability of a busy response

[14] Comments of Sorenson at 6-7.

due to loop trunk congestion shall be functionally equivalent to what a voice caller would experience in attempting to reach a party through the voice telephone network.[15]

VI. Sequential Calls May Not Be Included In the Speed of Answer Calculation

Sorenson proposes that sequential calls be included in the speed of answer calculation, resulting in calls made by a VRS agent subsequent to the initial inbound call achieving a zero answer time.[16] CSD opposes this proposal as being in violation of industry practice. ASA must be measured only on the initial inbound connection; sequential calls have never been and should not now be included in any measure of ASA.

Respectfully submitted,

/s/

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[15] 47 C.F.R. §64.604(b)(4).
[16] Sorenson at 7.

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